

UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 AT SEATTLE

JAMES A. BOYD, et al.,)	CASE NO. C05-0020-JLR-MAT
)	
Plaintiffs,)	
)	
v.)	
)	ORDER RE: PLAINTIFF BOYD'S
JOSEPH LEHMAN, et al.,)	MOTION FOR SUMMARY
)	JUDGMENT
Defendants.)	
_____)	

On January 4, 2005, plaintiffs James Boyd and Jermal Joe filed a civil rights complaint under 42 U.S.C. § 1983. The complaint was ordered served on defendants and, on April 4, 2005, defendants timely filed their answer to the complaint. On April 26, 2005, this Court issued an Order re: Pretrial Preparations which set forth a number of pretrial deadlines, including deadlines for the completion of discovery and for the filing of dispositive motions. On the same date, this Court issued an Order striking a number documents filed by plaintiffs because the documents were signed only by plaintiff Boyd. The Court advised plaintiffs in that Order that because they were proceeding as co-plaintiffs in this action they were both required to sign every document filed with the Court.

On May 19, 2005, plaintiff Boyd filed a motion for summary judgment in this action. In a notice of hearing which accompanied plaintiff's motion, plaintiff Boyd requested that the motion be noted on the Court's calendar for consideration on August 1, 2005. However, in the body of

01 his motion, he asked that defendants be allowed until October 25, 2005, to conduct discovery and
02 to file dispositive motions in response to his motion for summary judgment. The motion for
03 summary judgment, as well as all supporting documents, were signed only by plaintiff Boyd.

04 On May 26, 2005, defendants filed a motion to continue the motion for summary judgment
05 pursuant to Rule 56(f) of the Federal Rules of Civil Procedure. Defendants argued in their motion
06 that they had not yet had the opportunity to conduct any discovery and that discovery was
07 necessary in order to adequately address the pending summary judgment motion. They also noted
08 in their motion that only plaintiff Boyd had signed the summary judgment motion in contravention
09 of the Court's April 26 Order.

10 On June 3, 2005, plaintiff Boyd filed a response to defendants' motion to continue.
11 Plaintiff appears to argue in his response that the August 1, 2005, noting date should provide
12 sufficient time for defendants to conduct discovery and to file a response to his summary judgment
13 motion. Plaintiff Boyd also notes in his response to defendants' motion to continue that he
14 previously filed a "withdrawal" of one of the claims presented in his complaint, the one claim
15 which specifically referenced co-plaintiff Joe. Plaintiff Boyd appears to be of the belief that by
16 withdrawing certain claims involving his co-plaintiff he is relieved of the requirement that all
17 documents be signed by both plaintiffs.

18 Plaintiff Boyd may not simply withdraw claims implicating the rights of plaintiff Joe.
19 Unless and until plaintiff Joe moves to withdraw from this action, he will be deemed a co-plaintiff
20 in the action and will be required to sign all documents submitted to the Court for consideration.
21 Because the pending motion for summary judgment motion was signed only by plaintiff Boyd, it
22 is not properly before the Court. The Court notes, however, that even if the pending summary
23 judgment motion were properly before the Court, defendants would be entitled to the continuance
24 they seek in order to allow them to conduct relevant discovery.

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01 For the foregoing reasons, this Court does hereby ORDER as follows:

02 (1) Plaintiff Boyd's motion for summary judgment (Dkt. No. 17) and defendants'
03 motion to continue plaintiff Boyd's motion (Dkt. No. 22) are STRICKEN.

04 (2) The Clerk is directed to send copies of this Order to plaintiffs, to counsel for
05 defendants, and to the Honorable James L. Robart.

06 DATED this 15th day of July, 2005.

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08 Mary Alice Theiler
09 United States Magistrate Judge
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